IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.101 OF 2005

Dr. Shakeel Ahmed Hasmi ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr. A.Majeed Memon & Mr. Parvez Memon, for the Applicant.

Mr. V.B.Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

15th February 2005

P.C.:

. Heard Counsel for the parties. Perused the record. There are strong circumstances to indicate the complicity of the Applicant in the commission of the crime. There is extra-judicial confession of Afzal, which is recorded in September 2004, about the involvement of the

Applicant. Indeed, in the subsequent statement recorded under section 164 of the Code of the said witness, he has resiled from what was stated earlier. There are, however, extra-judicial confessions of Deepika Goyal and Gayatur, on the basis of disclosure made by the co-accused Parag. Even if the same has no evidentiary value sofar as the Applicant is concerned, it is the prosecution case that the gold chain belonging to the deceased Abhishek has been recovered at the instance of the Applicant, as well as keys of the flat of deceased Abhishek were also found with the Applicant. Suffice it to observe that there is material to indicate the involvement of the Applicant in the commission of the crime and being a serious offence, not a case for bail. Rejected.

. There is, however, substance in the grievance that the Applicant is in custody since September 2004 and the charge sheet has also been filed. In such a case, the trial ought to proceed, as bail has been refused by the lower Court. Learned A.P.P. submits that the investigating officer intends to make further

investigation, though charge sheet has been filed. That, however, should not delay the trial. The further investigation is in connection with the gold chain recovered at the instance of the Applicant, as back as in September 2004. Sufficient time was available to the investigating agency to proceed in that behalf. In any case, the investigating agency may proceed with the further investigation, if it is so advised in terms of section 173(8) of the Code. In any case, as the learned A.P.P. fairly accepts that further investigation should not delay the trial and that necessary co-operation will be given by the prosecution for early trial, the Sessions Judge, Thane, is directed to assign the case to Fast Track Court, if not already done, to ensure early disposal of the trial. The trial shall be concluded preferably within six months from the receipt of writ of this Court.

(A.M.KHANWILKAR,J.)